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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/401,495 09/22/99 MARSCHOLL

K 08204.035

EXAMINER

PM82/0227

LINIAK BERENATO LONGACRE & WHITE
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

STRIMBU, G
ART UNIT

PAPER NUMBER

3634
DATE MAILED:

02/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/401,495

Applicant(s)

K. Marscholl

Examiner

Gregory J. Strimbu

Group Art Unit

3634



☒ Responsive to communication(s) filed on Dec 8, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Sep 22, 1999 is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Dec 8, 2000 is ☒ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Information Disclosure Statement

Although the applicant has indicated that a new IDS including a concise statement of the relevance of DE 2323784 has been filed, it does not appear in the case, therefore, the information disclosure statement filed March 17, 2000 fails to comply with 37 CFR 1.98(a)(3). It does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of the 2323784 German Patent Publication which is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on December 8, 2000 have been approved.

The drawings, however, are objected to because the applicant has used the same reference character to refer to different embodiments of the same element of the invention. For example, the applicant uses reference character "14" to refer to the crossbar in figures 1 and 3. However, since the crossbar in figure 3 is different from the crossbar in figure 1, it requires a different reference character from figure 1 such as --14''--. Correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the double prime reference signs in figure 3 which are not mentioned in the description. For example, see 11'' in figure 3. Correction is required.

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Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the rigid coupling connecting the two actuators as set forth in claim 1.

The disclosure is objected to because of the following informalities: on line 6 of page 7, each figure should be described separately to avoid confusion; on line 7 of page 8, "of the drive motor" is grammatically awkward and confusing; on line 22 of page 8, it appears that "support sheetmetals" should be changed to --sheetmetal supports--; on line 1 of page 9, "of its own" is grammatically awkward and confusing.

Appropriate correction is required.

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Claim Rejections - 35 USC § 112

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as “at least one actuator” on line 6 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to one of the two actuators set forth above or is attempting to set forth another actuator in addition to the two set forth above. Recitations such as “substantially rigid coupling” on lines 9-10 of claim 1 render the claims indefinite because it is unclear how a substantially rigid coupling can provide a rigid connection. It would appear that, since the coupling is only substantially rigid, the best the coupling could do is provide a substantially rigid connection between the two actuators. Recitations such as “the above claims, the width” on lines 1-2 of claim 4 are grammatically awkward and confusing. Recitations such as “means” on line 3 of claim 5 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as “at the mounting structure” on line 4 of claim 6 render the claims indefinite because they are grammatically awkward and confusing. Is the guide merely at the mounting structure or part of the mounting structure? Recitations such as “the at least one of said first and second guides” on

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lines 1-2 of claim 7 render the claims indefinite because they lack antecedent basis. Recitations such as “or” on line 2 of claim 8 render the claims indefinite because it is unclear which one of the two non-equivalent alternatives the applicant is attempting to positively set forth. Recitations such as “four reversing rollers” on lines 1-2 of claim 10 render the claims indefinite because it is unclear if the applicant is referring to the reversing rollers set forth above or is attempting to set forth rollers in addition to the rollers set forth above. It is suggested that the applicant change “four reversing rollers” on lines 1-2 of claim 10 to --said several reversing rollers comprise four reversing rollers-- to avoid confusion. Recitations such as “a crossbar” on line 2 of claim 12 render the claims indefinite because it is unclear if the applicant is referring to the coupling set forth above or is attempting to set forth another element of the invention in addition to the coupling set forth above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent Publication No. 796 54 851. German Patent Publication No. 796 54 851 discloses a motor vehicle window lift comprising a mounting structure (not shown but comprising a

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component of the vehicle door, i.e., the inner door panel), a drive means 3, a cable system 1 having two cable segments running substantially parallel to each other, several reversing rollers 4, 5 for the cable system and two actuators 20 for the window pane 7, each affixed to a respective one of the cable segments, at least one actuator 20 being displaceably guided in a first guide 10 on the mounting structure, wherein the two actuators are rigidly connected to each other by a substantially rigid coupling 8. The rigid coupling 8 is a cross bar which is detachably attached to the actuators 20 and forms the rigid coupling. A second guide 10 and a second actuator 20 are provided. The second actuator 20 is affixed to one of the cable segments remote from the first guide 10 and is not guided by the first guide 10, but guided by the second guide.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent Publication No. 796 54 851 as applied to claims 1-3, 5-7 and 9-12 above, and further in view of Kimura et al. Kimura et al. disclose a mounting structure B3 having a width is less than approximately 2/3 the width of the window pane B1.

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It would have been obvious to one of ordinary skill in the art to provide German Patent Publication No. 796 54 851 with a width, as taught by Kimura et al., to reduce the amount of space required in the vehicle door to mount the window lift.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent Publication No. 796 54 851 as applied to claims 1-3, 5-7 and 9-12 above. German Patent Publication No. 796 54 851 is silent concerning how the guides are attached to the mounting structure. However, it would have been no more than an obvious matter of engineering design choice for one with ordinary skill in the art to screw, rivet or weld the guides to the mounting structure.

Response to Arguments

Applicant's arguments filed December 8, 2000 have been fully considered but they are not persuasive.

With respect to the applicant's comments concerning German Patent Publication No. 796 54 851 failing to disclose two actuators rigidly connected to each other by a substantially rigid coupling, the examiner respectfully disagrees. As shown in figure 1 of German Patent Publication No. 796 54 851, the actuators are connected to one another by the coupling 8. Since the coupling 8 provides the only connection between the actuators 20 and the coupling is rigid, the actuators must be rigidly coupled to each other. Merely because the actuators are pivotally coupled to the

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rigid coupling 8 does not prevent the actuators from being rigidly coupled to one another. If one were to push one of the actuators into the page, as shown in figure 1, and pull the other actuator out of the page, as shown in figure 1, the actuators would not pivot relative to one another and, due to the rigidity of the coupling 8, be rigidly coupled together. It appears that the applicant is arguing that the actuators are non-movably fixed to the rigid coupling 8, however, this argument is not presently supported by the claim language.

Conclusion

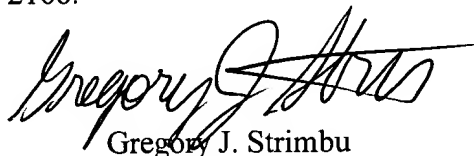
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant, *inter alia*, has amended claim 1 to include the new limitation of "the two actuators are rigidly connected to each other". Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Gregory J. Strimbu
Patent Examiner
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